

18 OCT 1983

MEMORANDUM FOR:

[REDACTED]
Administrative Law Division
Office of General Counsel

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FROM:

[REDACTED]
Chief, Policy and Plans Group
Office of Security

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SUBJECT:

Proposed Executive Orders on Employment
in the Federal Government and Protection
of National Security Information (U)

1. Representatives of the Office of Security have reviewed the two proposed Executive Orders which you provided to [REDACTED] of this Office on 4 October 1983. The following comments are offered. (C)

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° We have no basic objection to the concept of two Executive Orders - one for Federal employment and one for employment in positions requiring access to National Security Information (NSI). (U)

° In Section 2, line 2 of the Order for the Protection of NSI, we are unclear on what constitutes prudent "management risk" (sic) no doubt it should be "prudent risk management." We would prefer a simple statement (as it does almost appear later in the same sentence) that "Executive Branch security officials must carefully weigh all factors which suggest that a person may not properly safeguard...." (U)

° The Order on NSI appears somewhat heavy-handed and seems to give exclusive and final authority to security officials alone. Senior Agency officials who are now included in the appeal process under DCID 1/14 would appear to be excluded in this version. (U)

° Section 3, lines 1-7 of the proposed NSI Order do not seem to take into consideration a person's past activities. (U)

° It is suggested that the characteristics cited in Section 3 either be listed or placed in various groupings rather than provided in narrative

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style. The latter approach appears to us a bit heavy-handed. (U)

° The last two lines of Section 3 suggest that once an individual has been turned down, he or she will never again be considered for access. (U)

° Section 4, line 23 mentions Congressmen and Federal judges as persons who can receive classified information without formal clearance when needed. Should not Cabinet officials and others confirmed by the Senate be included? Furthermore, it would seem that the DCI should have releasing authority for information relating to Foreign Counterintelligence and the Director of the FBI for information relating to domestic counterintelligence. Also, should such dissemination to "uncleared" persons not be subject to minimum sanitization of certain materials in order to protect intelligence and intelligence sources and methods information? (C)

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° Section 5, lines 10-14 do not accurately portray the situation. The Department of Energy does not conduct background investigations when access to atomic energy information (RD) is required. The Office of Personnel Management does most of those investigations, with the FBI (probably) still doing a few of them. (U)

° The last four lines of Section 5 must be re-cast. We (and other agencies) must be able to see all available suitability information in order to reach a security determination. We cannot let an official at some other agency decide for us what is or is not pertinent to our security interests. (U)

° The restriction "only to the security offices" in line 5 of Section 6 suggests that the FBI would not be able to share data, as it does now, with the Agency's Directorate for Operations. (S)

° It is not clear to us whether the wording in Section 6, lines 15-20 means that information CIA receives from another agency may be used only for lead purposes. Under this wording, would CIA be allowed to make a security determination on the basis of the information it received? (C)

° There is no mention of "other investigative measures." A specific reference to use of the polygraph when appropriate might be considered here. (U)

° The question also arises as to whether the NSI Executive order should specify the level of Background Investigation for a specific level of access or if this should be left to the implementing regulations. As long as the original standards are set sufficiently high, we might have more uniformity if the NSI Executive order stated them succinctly. (S)

° Again, and this time with respect to Section 2, lines 15-28, of the proposed Executive Order on Employment in the Federal Government, we would note that Agency officials must see all available information in order to make informed decisions about an individual's suitability for Government employment. (U)

2. If you have any questions concerning these comments, please contact [redacted] Policy and Plans Group, on black line [redacted] extension 6. (C)

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